

AMENDED IN SENATE APRIL 21, 2015

**SENATE BILL**

**No. 124**

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**Introduced by Senator Leno**  
*(Coauthors: Senators Pan and Wieckowski)*  
*(Coauthors: Assembly Members Cooley and Gordon)*

January 16, 2015

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An act to amend Sections 225, 226, 229, 230, and 240 of, and to add Section 208.3 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 124, as amended, Leno. Juveniles: solitary confinement.

(1) Existing law permits minors who are detained in juvenile hall for habitual disobedience, truancy, or curfew violation to be held in the same facility as minors who are detained for violating any law or ordinance defining a crime, if they do not come or remain in contact with each other. Existing law also permits the detention of minors in jails and other secure facilities for the confinement of adults if the minors do not come or remain in contact with confined adults and other specified conditions are met.

Existing law, the Lanterman-Petris-Short Act, authorizes the involuntary detention for a period of 72 hours for evaluation of persons, including minors, who are dangerous to self or others, or gravely disabled, as defined.

This bill would prohibit a person confined in a juvenile facility who is a danger to himself, herself, or others as a result of a mental disorder, or who is gravely disabled, from being subject to solitary confinement, and would require that the person be transported to, and evaluated at, a designated facility. The bill would also prohibit a person, other than one described above, who is detained in any secure state or local juvenile

facility from being subject to solitary confinement unless certain conditions are satisfied, including that the person poses an immediate and substantial risk of harm to the security of the facility, poses an immediate and substantial risk of harm to others that is not the result of a mental disorder, or poses a risk of harm to himself or herself that is not a result of a mental disorder. The bill would permit, if those conditions are satisfied, the person to be held in solitary confinement only in accordance with specified guidelines, including that the person be held in solitary confinement only for the minimum time required to address the risk, and that does not compromise the mental and physical health of the person, but no longer than 4 hours. The bill would require each local and state juvenile facility to document the usage of solitary confinement, as prescribed. By increasing the duties of local juvenile facilities, the bill would impose a state-mandated local program.

(2) Existing law establishes a juvenile justice commission in each county, but authorizes the boards of supervisors of 2 or more adjacent counties to agree to establish a regional juvenile justice commission in lieu of a county juvenile justice commission. Existing law specifies the membership of these commissions, including that 2 or more members shall be persons who are 14 to 21 years of age, inclusive, and that a regional juvenile justice commission shall consist of not less than 8 citizens.

Existing law also establishes a probation commission, consisting of not less than 7 members, in lieu of a juvenile justice commission in counties with a population in excess of 6,000,000.

This bill would increase the membership of a regional juvenile justice commission to no less than 10 members and would require a probation commission to include 2 or more members who are 14 to 21 years of age, inclusive. The bill would also require that 2 or more members of a juvenile justice commission, a regional juvenile justice commission, or a probation commission be parents or guardians of previously or currently incarcerated youth, and one member be a licensed psychiatrist, licensed psychologist, or licensed clinical social worker with expertise in adolescent development.

Existing law requires a juvenile justice commission to annually inspect any jail or lockup that, in the preceding calendar year, was used for confinement for more than 24 hours of any minor, and to report the results of the inspection, together with its recommendations based thereon, in writing, to the juvenile court and the Board of State and Community Corrections.

This bill would instead require a juvenile justice commission and a probation commission to inspect any jail, lockup, or facility that, in the preceding calendar year, was used for confinement for more than 24 hours of any person and would require, as a part of that inspection, a review of the records of the jail, lockup, or facility relating to the use of solitary confinement. The bill would require the commission to report the results of the inspection, together with its recommendations based thereon, in writing, to the juvenile court, the Board of State and Community Corrections, and the county board of supervisors. The bill would require the commission to annually present its report at a regularly scheduled public meeting of the county board of supervisors, and to publish the report on the county government's Internet Web site. The bill also would authorize a commission to publicize its recommendations made to any person charged with administration of the Juvenile Court Law on the county government's Internet Web site or other publicly accessible medium.

By increasing the duties of local commissions and county boards of supervisors, this bill would impose a state-mandated local program.

(3) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 208.3 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 208.3. (a) For purposes of this section, the following
- 4 definitions shall apply:

1 (1) “Juvenile facility” includes any of the following:

2 (A) A juvenile hall, as described in Section 850.

3 (B) A juvenile camp or ranch, as described in Article 24  
4 (commencing with Section 880).

5 (C) A facility of the Department of Corrections and  
6 Rehabilitation, Division of Juvenile Facilities.

7 (D) A regional youth educational facility, as described in Section  
8 894.

9 (E) A youth correctional center, as described in Article 9  
10 (commencing with Section 1850) of Chapter 1 of Division 2.5.

11 (F) Any other local or state facility used for the confinement of  
12 minors or wards.

13 (2) “Minor” means a person who is any of the following:

14 (A) A person under 18 years of age.

15 (B) A person under the maximum age of juvenile court  
16 jurisdiction who is confined in a juvenile facility.

17 (C) A person under the jurisdiction of the Department of  
18 Corrections and Rehabilitation, Division of Juvenile Facilities.

19 (3) “Solitary confinement” means the placement of an  
20 incarcerated person in a locked room or cell alone with minimal  
21 or no contact with persons other than guards, correctional facility  
22 staff, and attorneys. Solitary confinement does not include  
23 confinement of a person in a single-person room or cell for brief  
24 periods of locked-room confinement necessary for required  
25 institutional operations, including, but not limited to, shift changes,  
26 showering, and unit movements.

27 (4) “Ward” means a person who has been declared a ward of  
28 the court pursuant to subdivision (a) of Section 602.

29 (b) A person confined in a juvenile facility who is a danger to  
30 himself, herself, or others as a result of a mental disorder, or who  
31 is gravely disabled, as defined in subdivision (h) of Section 5008,  
32 shall not be subject to solitary confinement, and shall be transported  
33 to, and evaluated at, a designated facility, as defined in subdivision  
34 (n) of Section 5008, pursuant to Section 5150 or Section 5585.50.

35 (c) A person confined in any secure state or local juvenile  
36 facility, and who is not described in subdivision (b), shall be subject  
37 to solitary confinement only if all of the following are true:

38 (1) The person poses an immediate and substantial risk of harm  
39 to the security of the facility, the person poses an immediate and  
40 substantial risk of harm to others that is not the result of a mental

1 disorder, or the person poses a risk of harm to himself or herself  
2 that is not a result of a mental disorder.

3 (2) All other less-restrictive options to address the risk have  
4 been attempted and exhausted.

5 (3) The performance of solitary confinement is done in  
6 accordance with the following guidelines:

7 (A) The person may be held in solitary confinement only for  
8 the minimum time required to address the risk, and for a period of  
9 time that does not compromise the mental and physical health of  
10 the minor or ward, but not to exceed four hours. After the person  
11 is held in solitary confinement, the person shall be returned to  
12 regular programming or placed in individualized programming  
13 that does not involve solitary confinement. If it appears during the  
14 time a person is held in solitary confinement that the person is  
15 suffering from a mental disorder, ~~and consultation with a qualified~~  
16 ~~mental health professional determines that it is appropriate, the~~  
17 ~~person shall be transported to a mental health facility. the juvenile~~  
18 ~~facility shall consult with a qualified mental health professional~~  
19 ~~to determine whether the person suffers from a mental disorder.~~  
20 *If the person suffers from a mental disorder that may warrant a*  
21 *higher level of care than can be provided at the juvenile facility*  
22 *and the person continues to pose a risk of harm, the juvenile facility*  
23 *shall transport the person to a mental health facility.*

24 (B) If a person in solitary confinement poses a risk of harm to  
25 himself or herself that is not a result of a mental disorder, the  
26 condition of the person shall be monitored closely by ~~a qualified~~  
27 ~~mental health professional. If a qualified mental health professional~~  
28 ~~determines that the person cannot be safely released from solitary~~  
29 ~~confinement, the person shall be transported to a mental health~~  
30 ~~facility or hospital for the development and implementation of an~~  
31 ~~individualized suicide crisis intervention plan. custody staff of the~~  
32 *juvenile facility.*

33 (C) The use of consecutive periods of solitary confinement shall  
34 be prohibited.

35 (d) Solitary confinement shall not be used for the purposes of  
36 discipline, punishment, coercion, convenience, or retaliation by  
37 staff.

38 (e) Each local and state juvenile facility shall document the  
39 usage of solitary confinement, including all of the following:

1 (1) The ~~name~~ *name, age, gender, and race* of the person subject  
2 to solitary confinement.

3 (2) The date and time the person was placed in solitary  
4 confinement.

5 (3) The date and time the person was released from solitary  
6 confinement.

7 (4) The name and position of person authorizing the placement  
8 of the person in solitary confinement.

9 (5) The names of staff involved in the incident leading to the  
10 use of solitary confinement.

11 (6) A description of circumstances leading to use of solitary  
12 confinement.

13 (7) A description of alternative actions and sanctions attempted  
14 and found unsuccessful.

15 (8) The dates and times when staff checked in on the person  
16 when he or she was in solitary confinement, and the person's  
17 behavior during the check.

18 (f) The records described in subdivision (e), excluding any  
19 identifying information, shall be available for public inspection  
20 pursuant to the California Public Records Act (Chapter 3.5  
21 (commencing with Section 6250) of Division 7 of Title 1 of the  
22 Government Code).

23 (g) This section is not intended to limit the use of single-person  
24 rooms or cells for the housing of persons in juvenile facilities.

25 (h) This section does not apply to minors or wards in court  
26 holding facilities or adult facilities.

27 (i) Nothing in this section shall be construed to conflict with  
28 any law providing greater or additional protections to minors or  
29 wards.

30 SEC. 2. Section 225 of the Welfare and Institutions Code is  
31 amended to read:

32 225. (a) In each county there shall be a juvenile justice  
33 commission consisting of not less than 7 and no more than 15  
34 citizens. Two or more of the members shall be persons who are  
35 14 to 21 years of age, inclusive. Two or more of the members shall  
36 be parents or guardians of previously or currently incarcerated  
37 youth. One member shall be a licensed psychiatrist, licensed  
38 psychologist, or licensed clinical social worker with expertise in  
39 adolescent development. Each person serving as a member of a  
40 probation committee immediately prior to September 15, 1961,

1 shall be a member of the juvenile justice commission and shall  
2 continue to serve until his or her term of appointment as a member  
3 of the probation committee would have expired under any prior  
4 law. Upon a vacancy occurring in the membership of the  
5 commission, and upon the expiration of the term of office of any  
6 member, a successor shall be appointed by the presiding judge of  
7 the superior court with the concurrence of the judge of the juvenile  
8 court or, in a county having more than one judge of the juvenile  
9 court, with the concurrence of the presiding judge of the juvenile  
10 court for a term of four years. If a vacancy occurs for any reason  
11 other than the expiration of a term of office, the appointee to fill  
12 the vacancy shall hold office for the unexpired term of his or her  
13 predecessor.

14 (b) Appointments may be made by the presiding judge of the  
15 superior court, in the same manner designated in this section for  
16 the filling of vacancies, to increase the membership of a  
17 commission to the maximum of 15 members in any county that  
18 has a commission with a membership of less than 15 members.

19 (c) In any county in which the membership of the commission,  
20 on the effective date of amendments to this section enacted at the  
21 1971 Regular Session of the Legislature, exceeds the maximum  
22 number permitted by this section, no additional appointments shall  
23 be made until the number of commissioners is less than the  
24 maximum number permitted by this section. In any case, ~~such that~~  
25 county's commission membership shall, on or after January 1,  
26 1974, be no greater than the maximum number permitted by this  
27 section.

28 SEC. 3. Section 226 of the Welfare and Institutions Code is  
29 amended to read:

30 226. In lieu of county juvenile justice commissions, the boards  
31 of supervisors of two or more adjacent counties may agree to  
32 establish a regional juvenile justice commission consisting of not  
33 less than 10 citizens, and having a sufficient number of members  
34 so that their appointment may be equally apportioned between the  
35 participating counties. Two or more of the members shall be  
36 persons who are 14 to 21 years of age, inclusive. Two or more of  
37 the members shall be parents or guardians of previously or  
38 currently incarcerated youth. One member shall be a licensed  
39 psychiatrist, licensed psychologist, or licensed clinical social  
40 worker with expertise in adolescent development. The presiding

1 judge of the superior court with the concurrence of the judge of  
2 the juvenile court or, in a county having more than one judge of  
3 the juvenile court, with the concurrence of the presiding judge of  
4 the juvenile court of each of the participating counties shall appoint  
5 an equal number of members to the regional justice commission  
6 and the members shall hold office for a term of four years. Of those  
7 first appointed, however, if the number of members appointed is  
8 an even number, one-half shall serve for a term of two years and  
9 one-half shall serve for a term of four years. If the number of  
10 members first appointed is an odd number, the greater number  
11 nearest one-half shall serve for a term of two years and the  
12 remainder shall serve for a term of four years. The respective terms  
13 of the members first appointed shall be determined by lot as soon  
14 as possible after their appointment. Upon a vacancy occurring in  
15 the membership of the commission, and upon the expiration of the  
16 term of office of any member, a successor shall be appointed by  
17 the presiding judge of the superior court with the concurrence of  
18 the judge of the juvenile court or, in a county having more than  
19 one judge of the juvenile court, with the concurrence of the  
20 presiding judge of the juvenile court of the county that originally  
21 appointed the vacating or retiring member. If a vacancy occurs for  
22 any reason other than the expiration of a term of office, the  
23 appointee shall hold office for the unexpired term of his or her  
24 predecessor.

25 SEC. 4. Section 229 of the Welfare and Institutions Code is  
26 amended to read:

27 229. (a) It shall be the duty of a juvenile justice commission  
28 or a probation commission to inquire into the administration of  
29 the juvenile court law in the county or region in which the  
30 commission serves. For this purpose the commission shall have  
31 access to all publicly administered institutions authorized or whose  
32 use is authorized by this chapter situated in the county or region,  
33 shall inspect those institutions at least once a year, and may hold  
34 public hearings. A judge of the juvenile court may issue subpoenas  
35 requiring attendance and testimony of witnesses and production  
36 of papers at hearings of the commission.

37 (b) A juvenile justice commission or probation commission  
38 shall annually inspect any jail, lockup, or facility within the county  
39 that, in the preceding calendar year, was used for confinement for  
40 more than 24 hours of any person. As a part of the annual



1 inspection, a juvenile justice commission or probation commission  
2 shall review the records of the jail, lockup, or facility relating to  
3 the use of solitary confinement, as defined in paragraph (3) of  
4 subdivision (a) of Section 208.3. The commission shall report the  
5 results of the inspection, together with its recommendations based  
6 thereon, in writing, to the juvenile court, the county board of  
7 supervisors, and to the Board of State and Community Corrections.  
8 The report shall be presented annually as part of a regularly  
9 scheduled public meeting of the county board of supervisors, and  
10 may be published on the county government's Internet Web site.

11 SEC. 5. Section 230 of the Welfare and Institutions Code is  
12 amended to read:

13 230. A juvenile justice commission or probation commission  
14 may recommend to any person charged with the administration of  
15 any of the provisions of this chapter those changes it has concluded,  
16 after investigation, will be beneficial. A commission may publicize  
17 its recommendations on the county government's Internet Web  
18 site or other publicly accessible medium.

19 SEC. 6. Section 240 of the Welfare and Institutions Code is  
20 amended to read:

21 240. In counties having a population in excess of 6,000,000 in  
22 lieu of a county juvenile justice commission, there shall be a  
23 probation commission consisting of not less than seven members  
24 who shall be appointed by the same authority as that authorized  
25 to appoint the probation officer in that county. Two or more of the  
26 members shall be 14 to 21 years of age, inclusive. Two or more  
27 of the members shall be parents or guardians of previously or  
28 currently incarcerated youth. One member shall be a licensed  
29 psychiatrist, licensed psychologist, or licensed clinical social  
30 worker with expertise in adolescent development.

31 SEC. 7. The Legislature finds and declares that Section 1 of  
32 this act, which adds Section 208.3 to the Welfare and Institutions  
33 Code, imposes a limitation on the public's right of access to the  
34 meetings of public bodies or the writings of public officials and  
35 agencies within the meaning of Section 3 of Article I of the  
36 California Constitution. Pursuant to that constitutional provision,  
37 the Legislature makes the following findings to demonstrate the  
38 interest protected by this limitation and the need for protecting  
39 that interest:

1 In order to protect the privacy and medical information of  
2 persons confined in secure state and local juvenile facilities and  
3 held in solitary confinement, it is necessary that identifying  
4 information about those persons be kept confidential.

5 SEC. 8. If the Commission on State Mandates determines that  
6 this act contains costs mandated by the state, reimbursement to  
7 local agencies and school districts for those costs shall be made  
8 pursuant to Part 7 (commencing with Section 17500) of Division  
9 4 of Title 2 of the Government Code.